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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/002,356

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Mark D. Seaman

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EXAMINER

HUYNH, BA

ART UNIT

PAPER NUMBER

2179

NOTIFICATION DATE

DELIVERY MODE

01/09/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/002,356	Applicant(s) SEAMAN ET AL.	
	Examiner Ba Huynh	Art Unit 2179	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Claim Rejections - 35 USC § 112***

Claims 1-52 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The amended limitations “*automatically separate non-time stamped media elements and automatically place the non-time stamped media elements at the beginning or end timeline location according to control setting*”. The spec merely suggests that non-time stamped elements can be separated and be placed at the beginning or the end of the timeline but fails to provide a detailed description of the automatic separation, e.g., by which way such a function is being performed and by which means. The spec also fails to provide detail description regarding the control setting for placing the non-time stamped at the beginning or the end of the timeline. The spec further fails to provide detailed description for the limitation “*sorting identified media elements according to selected control settings*”.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14-17, 42-52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

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applicant regards as the invention. The phrase “the computer implemented computer system” lacks clear antecedent basis.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-17, 42-48 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Independent claims 1, 14, 42 recite “A computer readable storage medium, having stored thereon a program for...” The computer readable storage medium, as disclosed in the specification, can be paper (the spec, page 9, lines 17-21). Printed matter is subjected for copyright protection and is not patent statutory subject matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent application publication 7,325,199 (Reid) in view of US patent application publication 2004/0268224 (Balkus et al).

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- As for claims 1, 13, 14, 18, 28, 35, 38, 42, 45: Reid teaches a computer implemented method and corresponding apparatus usable in a general purpose computer system (fig. 3) for composing a multimedia presentation from a plurality of media elements, the plurality of media elements including audio media elements and image elements (5:34-41), determine at least a control setting including the duration of time for displaying at least one still image in an initial representation (7:31-36, 8:4-9), automatically overlap media elements on a same image track (18:3-23) that were recorded contemporaneously and media elements with changed time stamps that overlap time stamps of other element (7:36-42, 17:57-18:2), automatically compose the initial presentation by sorting identified media elements according to selected control setting, the initial presentation is based in part on the duration time for the at least one still image and the time stamp of the media element (i.e, the sorting is done automatically as the media element are in time-based elements, 20:17-20). Reid fails to clearly teach that the media elements include time-stamped and non-time-stamped elements. However in the same field of video editing, Balkus et al teach time-stamped and non-time-stamped elements (0032). It would have been obvious to one of skill in the art, at the time the invention was made, to combine Balkus' teaching of time-stamped and non-time-stamped elements to Reid. Motivation of the combining is for enrichment of the media sources. In light of Reid's teaching of project planning, the non-time-stamped elements (such as the title, logo, still images) can be placed at the beginning or the end of the timeline.
- As for claims 2, 15, 19: An initial presentation is displayed (Reid's fig 6; Balkus' fig 7B).

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- As for claims 3, 5, 7, 16, 20, 40, 47: Reid's figs 6A-C disclose the timelines having image tracks and sound tracks showing the order of media elements in the timelines. See also Balkus' fig. 7B.
- As for claims 4, 6, 17, 21: Reid's figs 6A-C and 43 and Balkus' fig 7B disclose the timelines having image tracks and sound tracks showing the order of media elements in the timelines.
- As for claims 8, 23: The presentation based in part on the duration time of at least one still image (Reid's 8:4-11, 17:57-18:2; Balkus' fig, 7B).
- As for claims 9, 32: The presentation is edited in part by the user (Reid's fig 5; Balkus' 0051, 0053).
- As for claims 10, 11, 25, 26: Graphic and text elements can be added to the presentation (Reid's 1:25-29; Balkus' 0053).
- As for claims 12, 27: The control setting can be reset by the user (Reid's 14:11-15:47; Balkus' 0048).
- As for claims 22, 24: The editing including reordering the images (Reid's 17:15-30; Balkus' 0051, 0053).
- As for claim 29: Media elements are automatically placed in chronological order (Balkus' 0051, 0053, fig 7B).
- As for claims 30, 31, 39, 46: As image elements are chronologically ordered, associated audio elements are also placed in the same order (Balkus' fig 7B).
- As for claim 33: An image line is displayed in coordination with display of the presentation (Reid's figs 6; Balkus' fig 7B).

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- As for claim 34: An audio line is displayed in coordination with display of the presentation (Balkus' fig 7B).
- As for claims 36, 43: The control settings are user-selected control settings (Reid's 14:11-15:47; Balkus' 0048).
- As for claims 37, 44: The control settings include duration that still images are to be displayed (Reid's 14:11-15:47; Balkus' 0048).
- As for claims 41, 48: Image editing includes editing the initial presentation to create a final presentation (Reid's 17:15-30; Balkus' 0051, 0053).
- As for claims 49: The time of recording is based on a time stamp associated with the media elements (Reid's 7:32-36, 8:6-11; Balkus' 0051, 0053, fig 7B).
- As for claim 50: The user-selected images are arranged in chronological order (Reid's figs 6; Balkus' fig 7B).
- As for claim 51: Media elements can be bounded together, i.e., individual photograph can be bound with another photograph or an audio element. Media element can also be bound together to create special effect. Bounding of the elements is based on the timestamp of the element (Reid's 7:39-42, 9:59-62, 19:22-35; Balkus' fig 7B).
- As for claim 52: Time attribute is specified by the user. Thus a media element in a bound sequence can be unbound by re-specifying the time (19:46-60; Balkus' 0041).

Response to Arguments

Applicant's arguments filed 9/30/08 have been fully considered but they are not persuasive.

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Remarks:

The 112-1st rejection. The spec further fails to provide detailed description for the limitation “*sorting identified media elements according to selected control settings*”. “control setting” is defines as the duration of the display (see par 0030). Par 0038 et seq. discloses sorting the media elements according to timestamps. Detailed description of how to sort media elements according to "control setting" is not provided in the applicant's specification.

The 101 rejection: Independent claims 1, 14, 42 recite “A computer readable storage medium, having stored thereon a program for...” The computer readable storage medium, as disclosed in the specification, can be paper (the spec, page 9, lines 17-21). Printed matter is subjected for copyright protection and is not patent statutory subject matter. The amend language “a computer program *implemented on a computer*” does not cure the deficiency of the paper medium.

The 103 rejection: As set forth above, “control setting” is defines as the duration of the display (see par 0030). Claim limitations are read in light of the specification. Reid teaches various control settings in figures 6A-C. Reference thumbnails (not actual media content) are placed on the timeline. The references automatically form a presentation according to control setting, i.e., duration, specified by the user. Thus in Reid, the actual media contents are being sort according to information specified by the reference thumbnails.

Conclusion

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ba Huynh whose telephone number is (571) 272-4138. The examiner can normally be reached on Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (571) 272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ba Huynh

/Ba Huynh/

Primary Examiner, Art Unit 2179